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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,467	01/16/2002	Gerard Cote	N0349/7214 DW	6156

7590

02/23/2004

David Wolf
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Federal Reserve Plaza
Boston, MA 02210

EXAMINER

BUI, LUAN KIM

ART UNIT

PAPER NUMBER

3728

18

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/050,467

Applicant(s)

COTE, GERARD

Examiner

Luan K Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,5 and 7-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,5,7-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Prosecution Application

The Request for Continued Examination (RCE) filed on 2/9/2004 under 37 CFR 1.114 based on parent Application No. 10/050,467 is acceptable and a RCE has been established. An action on the RCE follows.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 5 and 7-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 2, the term "cardboard" lacks proper antecedent basis.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 2, 5 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Barnett et al. (5,704,479; hereinafter Barnett'479). Barnett'479 discloses in the embodiment of Figure 11, a box (30) formed from a single sheet of stock for dispensing a length of cable (24) wound around a spool (22, 110) comprising at least six outer walls including a pair of opposed, rectangular side

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walls (54, 56), a front wall (58), a back wall (60), a top wall (62), a bottom wall, a panel (58) in one of the walls of the box to provide an opening (70), and a cable spool support (122, 124) integrally formed within the box of the single sheet of stock (column 5, lines 25-30) including journals (126, 128) having a U-shape (72, 74) to rotatably support a spindle of a spool of cable. The support comprises a pair of rigid supports (122, 124) positioned opposite one another (Figure 11).

5. Claims 12-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Barnett et al. (5,704,479; hereinafter Barnett'479). Barnett'479 discloses an insert /box (28) formed of a single sheet of stock comprising an inner side wall (42, 50) having a journal (48) for supporting a spool and portions of inner side wall closely facing the spool side wall (34) and an outer side wall (38, 40) forming an exterior portion of the box. The outer side wall is adjacent and parallel to the inner side wall. Barnett'479 further discloses a bend line/score line (46) arranged at an upper edge of the box and between the inner side wall and the outer side wall (Figure 1). As to claim 17, Barnett'479 discloses a spacer (36) integrally connected to each of the inner side walls. The term "box" as broadly claim (claim 12) is read on the insert (28) of Barnett'479.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnett et al. (5,704,479; hereinafter Barnett'479) in view of Gaffney (4,382,510). Barnett'479 discloses in the embodiment of Figure 11, a box (30) formed from a single sheet of stock for dispensing a length of cable (24) wound around a spool (22, 110) comprising at least six outer walls including a pair of opposed, rectangular side walls (54, 56), a front wall (58), a back wall (60), a top wall (62), a bottom wall, a panel (58) in one of the walls of the box to provide an opening (70), and a cable spool support (122, 124) integrally formed within the box of the single sheet of stock (column 5, lines 25-30) including journals (126, 128) having a U-shape (72, 74) to rotatably support a spindle of a spool of cable (Figure 11). Barnett'479 also discloses the other claimed limitations except for the panel being shaped and sized to be moved from a position in a plane common with an outer wall to a position at least in part engaging the cable on the spool. Gaffney shows a box for dispensing a coiled elongated web (12) comprising a panel (30) is shaped and sized to be moved from a position in a plane common with an outer wall (Figure 1) to a position at least in part engaging the cable on the web (Figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made in view of Gaffney to modify the box of Barnett'479 so the panel of the box comprises shaped and sized to be moved from a position in a plane common with an outer wall to a position at least in part engaging the cable on the spool to prevent dust or others from getting into the box during storage and better controlling the cable during dispensing.

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7. Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 12 above, and further in view of Official Notice. To the extent that Barnett'479 further fails to show a score line in lieu of bend line (46). Official Notice is taken of the old and conventional practice of providing a score line to facilitate bending of a portion of a wall. It would have been obvious to one having ordinary skill in the art in view of Official Notice to modify the bend line of Barnett'479 so the bend line comprises a score line to facilitate bending.

Allowable Subject Matter

8. Claims 9-11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to all pending claims have been considered but are deemed to be moot in view of the new grounds of rejection.

The supplemental ADS has been entered.


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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (703) 305-5861. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to TC 3700 Customer Service at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 872-9301. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb
February 20, 2004



Luan K. Bui
Primary Examiner